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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No.

2009-136

11 PAUL WILLIAM THUNBERG
12 700 Pine Street
Bakersfield CA 93304

A C C U S A T I O N

13 Registered Nurse License No. 458894

14 Respondent.
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16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
20 (Board), Department of Consumer Affairs.

21 2. On or about August 31, 1990, the Board issued Registered Nurse License
22 Number 458894 to Paul William Thunberg (Respondent). The Registered Nurse License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
24 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may
2 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
3 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Section 2761 of the Code states:

5 "The board may take disciplinary action against a certified or licensed nurse or
6 deny an application for a certificate or license for any of the following:

7 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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9 "(f) Conviction of a felony or of any offense substantially related to the
10 qualifications, functions, and duties of a registered nurse, in which event the record of the
11 conviction shall be conclusive evidence thereof."

12 6. Section 2762 of the Code states:

13 "In addition to other acts constituting unprofessional conduct within the meaning
14 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
15 under this chapter to do any of the following:

16 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
17 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
18 or administer to another, any controlled substance as defined in Division 10 (commencing with
19 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
20 defined in Section 4022.

21 "(b) Use any controlled substance as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
23 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
24 injurious to himself or herself, any other person, or the public or to the extent that such use
25 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
26 license.

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"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

• • • •

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

7. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.”

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCES

9. “Demerol” is the trade name for Meperidine HCL, and is classified as a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(17), and is a dangerous drug pursuant to Code section 4022.

10. “Fentanyl” is the trade name for Sublimaze, and is classified as a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(8), and is a dangerous drug pursuant to Code section 4022.

11. “Versed” is the trade name for Midazolam, and is classified as a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(21), and is a dangerous drug pursuant to Code section 4022.

1 FIRST CAUSE FOR DISCIPLINE

2 (Illegally Obtaining, Possessing and/or Administration of Controlled Substances)

3 12. Respondent is subject to disciplinary action under Code sections 2761,
4 subdivision (a), and 2762, subdivision (a), on the grounds of unprofessional conduct, in that
5 Respondent illegally obtained, possessed, and/or, administered controlled substances to himself.
6 The circumstances are as follows:

7 a. In or between January 27, 1999 and March 19, 2001, while employed at
8 the Kern Radiology Medical Group, Respondent diverted, stole, obtained, and/or, used
9 approximately 398 one milliliter vials containing 50 mg each of Demerol as follows:.

10 i. A review of the controlled substances records of Kern Radiology
11 Medical Group revealed that approximately 318 one milliliter vials were found to be associated
12 with fictitious patient information. Further, Respondent documented thirty-four (34) patient
13 names¹ as having been administered Demerol, some on more than one occasion, when the
14 patients had not been scheduled for treatments on the days documented by Respondent. In
15 addition, Respondent documented providing 25 mg to 100 mg of Demerol to approximately 166
16 patients that did not exist, and which were not patients of Kern Radiology Medical Group.

17 ii. In or between February 2, 1999 and March 12, 2001, Respondent
18 was responsible for ordering Demerol from Gregg's Pharmacy for Kern Radiology Medical
19 Group. Respondent diverted, and/or, stole five to ten vials of Demerol from each order, for an
20 approximate total of 80 vials of Demerol 50 mg/ml.

21 b. On or about July 12, 2005, Respondent admitted that he had consistently
22 taken 25 mg from vials containing 50 mg of Demerol after administering 25 mg to a patient.
23 Respondent further admitted that he would save the remaining 25 mg of Demerol for use after
24 work for self-use.

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1. In order to protect patient confidentiality, patient names will be disclosed pursuant to a proper request for discovery.

1 c. In a "Last Use Questionnaire," Respondent admitted to using 50-100 mg
2 of Demerol per day until March 2001.

3 SECOND CAUSE FOR DISCIPLINE

4 (Substantially Related Act or Conviction)

5 13. Respondent is subject to disciplinary action under Code sections 2671,
6 subdivision (f), and 2762, subdivision (c), in conjunction with California Code of Regulations,
7 title 16, section 1444, in that Respondent was convicted of an offense substantially related to the
8 qualifications, functions, and duties of a registered nurse, which involved the use and self
9 administration of alcohol. The circumstances are as follows:

10 a. On or about February 26, 2004, in a case entitle *The People of the State of*
11 *California v. Paul William Thunberg*, in the Superior Court of California, County of Kern, Case
12 No. BM651804A, on his plea of guilty, Respondent was convicted of violating Penal Code
13 section 647, subdivision (f) (public intoxication), a misdemeanor. The conviction is the result of
14 Respondent's arrest on or about February 1, 2004, in which Respondent was found to be unable
15 to maintain his balance while standing, and to be too intoxicated to care for his safety and the
16 safety of others.

17 THIRD CAUSE FOR DISCIPLINE

18 (Use of Controlled Substances and Alcohol)

19 14. Respondent is subject to disciplinary action under Code section 2761,
20 subdivision (a), and 2762, subdivision (b), on the grounds of unprofessional conduct, in that
21 Respondent used a controlled substance and alcoholic beverages, to an extent or in a manner
22 dangerous or injurious to himself or the public, or to the extent that such use impairs his or her
23 ability to conduct with safety to the public the practice authorized by his or her license.
24 Specifically, Respondent was convicted of an offense involving alcohol and used a controlled
25 substance, Demerol, as more fully discussed in paragraphs 12 and 13, above, which are herein
26 incorporated by reference as set forth in whole.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Falsified, Grossly Incorrect Medical Records Pertaining to Controlled Substances)

3 15. Respondent is subject to disciplinary action under Code sections 2761,
4 subdivision (a), and 2762, subdivision (e), on the grounds of unprofessional conduct, in that
5 Respondent falsified, and/or, made grossly incorrect entries in a hospital, patient, or other
6 records pertaining to controlled substances as follows:

7 Kern Radiology Medical Group

8 a. Respondent falsified patient information in the medical records of Kern
9 Radiology Medical Group by creating false and fictitious patient names, and recording the
10 administration of controlled substances to patients who were not scheduled for treatment on the
11 date recorded by Respondent, as more fully discussed in paragraph 12, subparagraph (a)(i),
12 above, which is herein incorporated by reference as set forth in whole.

13 Mercy Medical Center

14 b. In or between June 1, 2005 and June 23, 2005, while working as a
15 registered nurse at Mercy Medical Center in Bakersfield, California, Respondent made false,
16 grossly incorrect, and/or, unintelligible entries in medical records, in that Respondent failed to
17 properly document and account for the administration, and/or, wastage of controlled substances
18 that he removed from the hospital's PYXIS² machine. Specifically, Respondent was unable to
19 account for approximately 1500 mcg of Fentanyl and 18 mg of Versed that was removed from
20 the hospital's PYXIS machine. The records and unaccounted for controlled substances are as
21 follows:

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27 2. The PYXIS Medication Station is a computerized medication dispensing station that
28 allows users to obtain medications using a name and personal identification number (PIN). The
user enters the patient's name and medications prescribed. The PYXIS Station records the date
and the time the medication was removed for use.

Patient No.	Date	Physician's Orders Controlled Substance	PYXIS Report (amount removed from machine)	Amount of controlled substance administered per records	Unaccounted for Controlled Substances: not wasted or returned
1A	6/1/05	Fentanyl 50 mcg Versed 1 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 1 mg	Fentanyl 50 mcg Versed 1 mg
1B	6/1/05	Fentanyl 50 mcg Versed 1 mg	2 Fentanyl 100 mcg Versed 2 1 mg	Fentanyl 100 mcg Versed 1 mg	Fentanyl 100 mcg Versed 1 mg
1G	6/6/05	No Order	Fentanyl 100 mcg Versed 2 mg (illegally obtained)	Not documented	Fentanyl 100 mcg Versed 2 mg
1H	6/6/05	Versed 2 mg	2 Fentanyl 100 mcg Versed 2 mg	Fentanyl 100 mcg Versed 1 mg	Fentanyl 100 mcg Versed 1 mg
1J	6/6/05	Conflict in Order	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 1 mg	Fentanyl 50 mcg Versed 1 mg
1K	6/7/05	Conflict in Order for Fentanyl; Versed 2 mg	2 Fentanyl 100 mcg Versed 2 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 100 mcg
1M	6/7/05	No Order for Fentanyl; Versed 1 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 1 mg	Fentanyl 50 mcg Versed 1 mg
1N	6/7/05	No Order for Fentanyl; Versed 1 mg	Fentanyl 100 mcg Versed 2 mg	Not Documented	Fentanyl 100 mcg Versed 2 mg
1O	6/8/05	No Order for Fentanyl; Versed 1 mg	Fentanyl 100 mcg Versed 2 mg	Not Documented	Fentanyl 100 mcg Versed 2 mg
1P	6/9/05	No Order	2 Fentanyl 100 mcg Versed 2 mg (illegally obtained)	Fentanyl 150 mcg Versed 2 mg	Fentanyl 50 mcg
1Q	6/10/05	No Order for Fentanyl; Conflict in order for Versed	Fentanyl 100 mcg Versed 2 mg (illegally obtained)	Fentanyl not documented; Versed 2 mg	Fentanyl 100 mcg
1R	6/9/05	No Order 6/9/05; Procedure on 6/10/05	Fentanyl 100 mcg Versed 2 mg (illegally obtained)	Not Documented	Fentanyl 100 mcg Versed 2 mg
1S	6/10/05	Fentanyl 50 mcg Versed 2 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 2 mg	Fentanyl 50 mcg
1T	6/13/05	Fentanyl 50 mcg Versed 2 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 2 mg	Fentanyl 50 mcg

Patient No.	Date	Physician's Orders Controlled Substance	PYXIS Report (amount removed from machine)	Amount of controlled substance administered per records	Unaccounted for Controlled Substances: not wasted or returned
1U	6/14/05	No Order	Versed 2 mg (illegally obtained)	Versed 1 mg	Versed 1 mg
1V	6/14/05	No Order for Fentanyl; Versed 2 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 1mg	Fentanyl 50 mcg Versed 1 mg
1W	6/14/05	No Order	Fentanyl 100 mcg Versed 2 mg (illegally obtained)	Not Documented	Fentanyl 100 mcg Versed 2 mg
1X	6/16/05	Conflict in Orders; Fentanyl 50 mcg Versed 1 mg vs. 2 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 1 mg	Fentanyl 50 mcg Versed 1 mg
1Y	6/17/05	Versed 2 mg	Fentanyl 100 mcg Versed 2 mg	Versed 2 mg	Fentanyl 100 mcg
CC	6/23/05	Versed 2 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 2 mg	Fentanyl 50 mcg
EE	6/23/05	Conflict in Orders; No order vs. order for Fentanyl 50 mcg; No order vs. order for Versed 4 mg	Fentanyl 100 mcg 2 Versed 2mg	Fentanyl 50 mcg Versed 4 mg	Fentanyl 50 mcg

c. In or between July 1, 2005 and July 13, 2005, while working as a registered nurse at Mercy Medical Center in Bakersfield, California, Respondent made false, grossly incorrect, and/or, unintelligible entries in medical records, in that Respondent failed to account for numerous amounts of controlled substances that he removed from the hospital's PYXIS machine as follows:

Patient No.	Date	Physician's Orders Controlled Substance	PYXIS Report (amount removed from machine)	Amount of controlled substance administered per records	Unaccounted for Controlled Substances: not wasted or returned
2A	7/6/05	Lidocaine 2% No order Versed	Versed 2 mg (illegally obtained)	Versed 1 mg	Versed 2 mg illegally obtained

Patient No.	Date	Physician's Orders Controlled Substance	PYXIS Report (amount removed from machine)	Amount of controlled substance administered per records	Unaccounted for Controlled Substances: not wasted or returned
2B	7/6/05	Fentanyl 100 mcg Versed 2 mg	(2) Fentanyl 100 mcg (2) Versed 2 mg (1 each illegally obtained)	Fentanyl 150mcg Versed 2 mg	Fentanyl 150 mcg Versed 2 mg no waste, unaccounted for
2C	7/8/05	Not Available	Demerol 50 mg	Demerol 25 mg	Demerol 25 mg no waste, unaccounted for
2E	7/9/05	Fentanyl 100 mcg Versed 2 mg	Fentanyl 100 mcg (2) Versed 2 mg (1 Versed 2 mg illegally obtained)	Fentanyl 50 mcg Versed 3 mg	Fentanyl 50 mcg not wasted, unaccounted for; Versed 1 mg not waste, unaccounted for
2G	7/11/05	Fentanyl 50 mcg Versed 2 mg	Fentanyl 100 mcg Versed 2 mg	Fentanyl 50 mcg Versed 2 mg	Fentanyl 50 mcg not wasted, unaccounted for;
2H	7/12/05	Lidocaine 1%	Versed 2mg (illegally obtained)	Fentanyl 50 mcg Versed 2 mg	Fentanyl 50 mcg false record, no waste; Versed 2 mg no waste, unaccounted for
2I	7/13/05	No Orders	Demerol 50 mg Versed 2 mg (illegally obtained)	Demerol 25 mg Versed 2 mg	Demerol 50 mg - no waste, unaccounted for Versed 2 mg - no waste, unaccounted for

FIFTH CAUSE FOR DISCIPLINE

(Illegally Obtaining Controlled Substances - Mercy Medical Center)

16. Respondent is subject to disciplinary action under Code sections 2761, subdivision (a), and 2762, subdivision (a), on the grounds of unprofessional conduct, in that in or between June 1, 2005 and July 13, 2005, Respondent illegally obtained controlled substances from Mercy Medical Center when he removed Fentanyl, Versed, and/or, Demerol for at least

1 eleven (11) patients without any physician's order or a physician's order for those particular
2 controlled substances, as more fully discussed in paragraph 15, above, which is herein
3 incorporated by reference as set forth in whole.

4 SIXTH CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct)

6 17. Respondent is subject to disciplinary action under Code section 2761,
7 subdivision (a), in that Respondent committed unprofessional conduct while licensed as a
8 Registered Nurse, as more fully discussed in paragraphs 12 through 16, above, which are herein
9 incorporated by reference as set forth in whole.

10 PRAYER


11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number 458894,
14 issued to Paul William Thunberg;

15 2. Ordering Paul William Thunberg to pay the Board of Registered Nursing
16 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: 12/8/08
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22 
23 RUTH ANN TERRY, M.P.H., R.N.
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 Complainant